UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,117	08/28/2001	Vincent P. Robibero	132702-0114	3920

43935   7590   06/12/2007
FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

EXAMINER
VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
06/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/940,117	ROBIBERO, VINCENT P.
	Examiner	Art Unit	
	John Van Bramer	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 March 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>18-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>18-35</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   The amendment dated March 27, 2007 cancelled no claims, and amended

Claims 18, 28 and 35. No new claims were added. Thus, the currently pending

claims are Claims 18 – 35.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 18 – 20, and 22 – 35 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gronemeyer et al. (U.S. Patent Number: 6,363,359) in view of

Ives et al. ("After the Sale: Leveraging Maintenance with Information Technology",

MIS Quarterly, Vol. 12, No 1, March 1988, pp 7-21).

Claim 18. Gronemeyer discloses an apparatus for using data obtained from remote

monitoring of customer equipment for service purposes to generate product sales

offers to customers comprising:

a. An input means for receiving dynamic parametric data information related to electrical and mechanical operating parameters of customer equipment in the installation being remotely monitored for service purposes. (Col 2, lines 41 – 57) (The input means disclosed is not the sentinel as asserted in the amendments arguments but rather the mechanism inherently disclosed by the fact that the server receives a response from its query to the sentinel.)

b. An equipment database storage device connected to said input means for receiving and storing said parametric data information in a form suitable for determining when to take corrective service action at the installation. (Col 5, lines 47-67) (Gronemeyer references a log file in this section that is transmitted to the server. The examiner has interpreted this, as presented in context, as a file of records relating to software and hardware on the consumers computer. A database is simply a large collection of organized data. As such, the log file as described is considered a database. In order for the server to perform operations on this database to determine the related products needed by the customer, it must inherently be stored in memory on the server. At a very minimum it would need to be stored in a temporary memory. Additionally, the examiner interprets parametric data to be data relating to parameters, measurments and values upon which the operation of a device relies. Therefore, information regarding the hardware and software on a computing system, which is included in the log file is parametric data.)

c. A product database storage device for storing product information related to
characteristics of a plurality of products related to the customer equipment, said
product information for each said characteristic including a Limit corresponding to
a possible value of said parametric data information of an associated one of said
operating parameters. (Col 1, lines 29-46 and Col 5, line 47 through Col 6, line
48) (In Col1, lines 29-46 Gronemeyer discloses that a product database and a
cross-reference database are obvious improvements that have previously been
made in the art. As such, in Col 5, lines 47-67, when the server is describes as
having goods and wares separated into different categories that interact with a
log file to generates sales offers it inherently contains such databases)

d. An offer generator means connected to said equipment database storage device
and to said product database storage device for comparing a value of said stored
parametric data information of a selected one of said operating parameters with
at least one of said stored product information limits corresponding to said
selected one operating parameter, said offer generator means generating a sales
offer for a product associated with said limit directed to the customer associated
with the customer equipment when said value and said limit have a
predetermined relationship representing a maintenance requirement. (Col 3, lines
11 – 35; and Col 5, line 47 through Col 6, line 48) (The applicant asserts that
Gronemeyer does not disclose the use of limits corresponding to possible values
of parametric data related to operating parameters for creating offers. However,

Gronemeyer specifically discloses the user of parametric data relating to computer hard drives for determining offers that are displayed to a customer)

While Gronemeyer does not explicitly state that the remotely monitored equipment includes at least one of an elevator installation and an escalator installation, it is disclosed that the remotely monitored "computing device may be a computer or other intelligent device, such as routers and switches, in addition to consumer devices such as telephones, radios, appliances, etc" (Col 9, lines 1 – 20). The analogous teaching of Ives further discloses intelligent elevators which have "self-diagnostic control systems that automatically notify Otis Elevator when maintenance is required (Ives: Page 13, Col 1, lines 3-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the system disclosed by Gronemeyer in an elevator or escalator installation. One would have motivated to monitor such installations in order to provide elevator companies with the "the means to monitor and control the service side of their business" (Ives: Page 8, Col 2, lines 19-23)

Claim 19. Gronemeyer and Ives disclose the apparatus according to Claim 18 including a customer database storage device connected to said offer generator means for receiving said sales offer and a web server connected to said customer database storage device for sending said sales offer to the customer. (Col 5, line 47 through Col 6, line 48)

Claim 20. Gronemeyer and Ives disclose the apparatus according to Claim 19

wherein said web server generates said sales of a on a web page for viewing by the

customer. (Col 4, lines 34 – 42)

Claim 22. Gronemeyer and Ives disclose the apparatus according to Claim 18

including a customer database storage device connected to said offer generator

means for receiving said sales offer, said customer database storage device

verifying accuracy of said sales offer against customer information stored in said

customer database storage device. (Col 7, lines 56 – 64)

Claim 23. Gronemeyer and Ives disclose the apparatus according to Claim 18

including a customer database storage device connected to said offer generator for

receiving said sales offer, said customer database storage device using customer

information stored therein for transmitting said sales offer to the customer. (Col 7,

lines 56 – 64)

Claim 24. Gronemeyer and Ives disclose the apparatus according to Claim 18

wherein said input means includes an interface connected to the customer

equipment for receiving said parametric data information, a data collector means

connected to said equipment database storage device and data transfer means

connected between said interface and said data collector means for transferring said

parametric data information to said equipment database storage device. (Col 2, lines 41 – 57)

Claim 25. Gronemeyer and Ives disclose the apparatus according to Claim 18 wherein the product information includes information about devices and services related to the customer equipment. (Col 2, lines 41 – 57)

Claim 26:   Gronemeyer and Ives disclose the apparatus according to claim 1 wherein data regarding the hard drive capacity and the maximum available storage are gathered in order to facilitate a decision by the system (Col 3, lines 11-37). While Gronemeyer does not specifically state that a threshold is used, it would have been obvious to one having ordinary skill in the art at the time the invention was made to base this decision on a threshold. One would have been motivated to do so because the criteria supplied, hard drive capacity and available storage space, would readily lend themselves to calculating a percentage figure from which the threshold would be determined and a trigger point set. (i.e. Make offer if available storage space is less than 20% of the maximum capacity).

Claim 27:   Gronemeyer and Ives disclose the apparatus according to claim 1 wherein data regarding the hard drive capacity and the maximum available storage are gathered in order to facilitate a decision by the system (Col 3, lines 11-37). While Gronemeyer does not specifically state that a range is used, it would have

been obvious to one having ordinary skill in the art at the time the invention was

made to base this decision on a range. One would have been motivated to do so

because the criteria supplied, hard drive capacity and available storage space,

would readily lend themselves to calculating a percentage figure from which a range

would be established. Any percentage falling within this range would then trigger the

generation of an offer. (i.e. Make offer if available storage space is between 5% and

20% of the maximum capacity).

Claim 28. Gronemeyer discloses a method of using data obtained from remote

monitoring of customer equipment for service purposes to generate product sales

offers, comprising the steps of:

a. Receiving dynamic parametric data information related to an electrical or

    mechanical operating parameter of customer equipment in an elevator

    installation or an escalator installation being remotely monitored for service

    purposes. (Col 1, lines 29-46 and Col 5, line 47 through Col 6, line 48)

b. Storing the parametric data information in an equipment database storage device

    in a form suitable for determining when to take corrective service action. (Col 1,

    lines 29-46 and Col 5, line 47 through Col 6, line 48)

c. Storing in a product database storage device product information related to a

    characteristic of at least one product including a limit corresponding to a possible

    value of the parametric data information. (Col 1, lines 29-46 and Col 5, line 47

    through Col 6, line 48)

d. Comparing a value of the stored parametric data information with the limit. (Col 1, lines 29-46; Col 3, lines 11 – 35 and Col 5, line 47 through Col 6, line 48)

e. Generating a sales offer directed to a customer associated with the customer equipment when the value and the limit have a predetermined relationship representing a maintenance requirement. (Col 1, lines 29-46; Col 3, lines 11 – 35 and Col 5, line 47 through Col 6, line 48)

While Gronemeyer does not explicitly state that the remotely monitored equipment includes at least one of an elevator installation and an escalator installation, it is disclosed that the remotely monitored "computing device may be a computer or other intelligent device, such as routers and switches, in addition to consumer devices such as telephones, radios, appliances, etc" (Col 9, lines 1 – 20). The analogous teaching of Ives further discloses intelligent elevators which have "self-diagnostic control systems that automatically notify Otis Elevator when maintenance is required (Ives: Page 13, Col 1, lines 3-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the system disclosed by Gronemeyer in an elevator or escalator installation. One would have motivated to monitor such installations in order to provide elevator companies with the "the means to monitor and control the service side of their business" (Ives: Page 8, Col 2, lines 19-23)

Claim 29. Gronemeyer and Ives disclose the method according to Claim 28 including a step of storing in a customer database storage device customer information

related to the customer and sending the sales offer to the customer based upon the

stored customer information. (Col 1, lines 29-46 and Col 5, line 47 through Col 6,

line 48)

Claim 30. Gronemeyer and Ives disclose the method according to Claim 29 including

sending the sales offer to the customer by at least one of regular mail, e-mail and a

web page. (Col 1, lines 29-46 and Col 5, line 47 through Col 6, line 48)

Claim 31. Gronemeyer and Ives disclose the method according to Claim 29 including

using the customer information to verify, the accuracy of the sales offer. (Col 1, lines

29-46 and Col 5, line 47 through Col 6, line 48) (Since the sales offer sent to the

customer is based upon the customer information, the accuracy of the offer in

relationship to the customer information is inherently verified)

Claim 32. Gronemeyer and Ives disclose the method according to Claim 28 including

a step of monitoring the customer equipment to generate the parametric data

information. (Col 3, lines 11 – 37; Col 4, lines 25 – 33; and Col 7, lines 31 – 40; and

Col 8, lines 11 - 14) (Applicant asserts that Gronemeyer requires a user to interact

with websites for the remote monitoring to occur. The cited references disclose the

operation of remote monitoring to occur without user intervention.)

Claim 33. Gronemeyer and Ives disclose the method according to Claim 28 wherein

said step c. is performed by storing in the product database storage device product

information related to characteristics of a plurality of devices and services. (Col 1,

lines 29-46 and Col 5, line 47 through Col 6, line 48)

Claim 34. Gronemeyer and Ives disclose the method according to Claim 28 including

performing said steps a through b. for a plurality of operating parameters of the

customer equipment. (Col 1, lines 29-46 and Col 5, line 47 through Col 6, line 48)

Claim 35. Gronemeyer discloses an apparatus for using data obtained from remote

monitoring of customer equipment for service purposes to generate product sales

offers to customers comprising:

a. A data collector means for receiving parametric data information related to

    electrical and mechanical operating parameters of remotely monitored customer

    equipment being monitored for service purposes. (Col 2, lines 41 – 57)

b. An equipment database storage device connected to said data collector means

    for receiving and storing said parametric data information in a form suitable for

    determining when to take a corrective service action. (Col 5, lines 47-67)

c. A product database storage device for storing product information related to

    characteristics of a plurality of products related to the customer equipment, said

    product information for each said characteristic including a limit corresponding to

    a possible value of said parametric data information of an associated one of said

operating parameters. (Col 1, lines 29-46 and Col 5, line 47 through Col 6, line 48)

d. An offer generator means connected to said equipment database storage device and to said product database storage device for comparing a value of said stored parametric data information of a selected one of said operating parameters with at least one of said stored product information limits corresponding to said selected one operating parameter, said offer generator means generating a sales offer for a product associated with said limit directed to the customer associated with the customer equipment when said value and said limit have a predetermined relationship representing a maintenance requirement. (Col 3, lines 11 – 35; and Col 5, line 47 through Col 6, line 48)

e. A customer database storage device connected to said offer generator means for receiving said sales offer. (Col 5, line 47 through Col 6, line 48)

f. A web server connected to said customer database storage device for sending said sales offer to the customer. (Col 4, lines 34 – 42)

While Gronemeyer does not explicitly state that the remotely monitored equipment includes at least one of an elevator installation and an escalator installation, it is disclosed that the remotely monitored "computing device may be a computer or other intelligent device, such as routers and switches, in addition to consumer devices such as telephones, radios, appliances, etc" (Col 9, lines 1 – 20). The analogous teaching of Ives further discloses intelligent elevators which have "self-diagnostic control systems that automatically notify Otis Elevator when maintenance

is required (Ives: Page 13, Col 1, lines 3-19). Therefore, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to use the

system disclosed by Gronemeyer in an elevator or escalator installation. One would

have motivated to monitor such installations in order to provide elevator companies

with the "the means to monitor and control the service side of their business" (Ives:

Page 8, Col 2, lines 19-23)

4.   Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Gronemeyer et al. (U.S. Patent Number: 6,363,359) in view of Ives et al. ("After the

Sale: Leveraging Maintenance with Information Technology", MIS Quarterly, Vol. 12,

No 1, March 1988, pp 7-21) in further view of Palme et al (RFC 2557, MIME

Encapsulation of Aggregate Documents, such as HTML).

Claim 21:   Gronemeyer and Ives disclose the apparatus according to claim 2

wherein said web server generates said sales offer as a web page (Col 6, lines 35-

48). However, Gronemeyer does not specifically state that the generated web page

is transmitted to the consumer using an email transportation protocol. In the

analogous teachings of Palme, a method of encapsulating web pages in email

documents is disclosed (Page 1, lines 18-37). It would have been obvious to one

having ordinary skill in the art at the time the invention was made to send the

generated sales offers via email. One would have been motivated to do so in order

to provide potential customers with a reminder of the offer, in the event that the

customer was not ready to make a purchasing decision during the browsing session.

Response to Arguments

5.   Applicant's arguments filed March 27, 2007 have been fully considered but

they are not persuasive.

a. The applicant argues that the examiner's citation regarding the inclusion of

information regarding the needed replacements for existing hardware and

software is divorced from contents. The applicant then goes on to state that

Gronemeyer refers to sales offers for the newest versions computer products and

software that are based upon the configuration of the clients computing device.

However, Gronemeyer specifically states that the needed good and services

include needed replacements for existing hardware and/or software (Col 2, lines

50-57). As such, the citation falls completely within the context of the disclosure.

The applicant further argues that the information gathered in Gronemeyer

represents static configuration data. However, the data cannot be static as the

applicant asserts because Gronemeyer discloses that the the detailed

information about a client computing device contains information that used in

remote testing and diagnosis of a failing client computing device components

(Col 9, lines 21-35). Additionally, if the information was intented to be static then

the monitoring could only be performed once, since the alteration of the software

and/or hardware on the monitored system would result in a change in the operating parameters of the system and thus the log would no longer contain information about the current configuration of the clients computing device.

b. The applicant argues that Gronemeyer does not teach collecting operating parameters of an electrical or mechanical nature. However, the hardware components of a computing device are mechanical and electrical in nature, and Gronemeyer teaches gathering data regarding needed hardware replacements (Col 2, lines 50-57; and Col 9, lines 30-35) as well as the fact that the computing device that is monitored is any intelligent device. such as appliances, telephones, and radios which all container system

c. The applicant argues that Gronemeyer does not disclose that the replacements are due to mechanical deterioration or is maintenance oriented. However, Gronemeyer specifically discloses this in Col 9, lines 30-35.

d. The applicant has requested that the examiner identify the support for the contention that Gronemeyer discloses "maximum available storage space". The previous office action cites the specific citation used by the examiner. As stated previously, Col 3, lines 10-37, specifically line 33. Note that the disclosure recites the term maxAvailableStorageSpace. The disclosure does not state maxStorageSpace as the applicant would like to interpret, but instead includes the term "available" indicating that the amount of space on the hard drive which is currently available is retrieved as the examiner stated.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented
in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37
CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire
THREE MONTHS from the mailing date of this action. In the event a first reply is
filed within TWO MONTHS of the mailing date of this final action and the advisory
action is not mailed until after the end of the THREE-MONTH shortened statutory
period, then the shortened statutory period will expire on the date the advisory action
is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from
the mailing date of the advisory action. In no event, however, will the statutory
period for reply expire later than SIX MONTHS from the date of this final action.

7.   Any inquiry concerning this communication or earlier communications from
the examiner should be directed to John Van Bramer whose telephone number is
(571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday
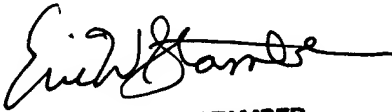through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax

phone number for the organization where this application or proceeding is assigned
is 571-273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR
only. For more information about the PAIR system, see http://pair-direct.uspto.gov.
Should you have questions on access to the Private PAIR system, contact the
Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like
assistance from a USPTO Customer Service Representative or access to the
automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-
272-1000.

jvb

ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600